IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 10 (MS) OF 2002

Ram Kishan, S/o Sri Laxman Das,
R/o Mohalla Bajpur Road near Kashipur,
Roadways Bus Station, Kashipur, Thana Kashipur,
District Udham Singh Nagar. .....Petitioner.

Versus

1. Addl. District Judge, Kashipur.
2. Civil Judge (Jr. Division) Kashipur, U.S. Nagar.
3. General Manager, N.E. Railway, Gorakhpur.
4. Divisional Manager, N.E. Railway, Izzatnaar.
5. Traffic Inspector, P.W.I. N.E. Railway, Kashipur, District- U.S. Nagar.
6. Nagar Palika Parishad, Kashipur, through its Chairman, Distt. U.S. Nagar.
7. District Magistrate, Udham Singh Nagar.

.....Respondents.

Mr. Jitendra Chaudhary, Advocate for the petitioner.
Learned Standing Counsel for the respondents.

Dated: 25.04.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the judgment and order dated 15.09.2000 passed in Civil Suit No. 146/91 and judgment dated 08.11.2001 passed by the Addl. District Judge, Kashipur in Civil Appeal No. 74 of 2000.

Briefly stated, a suit was filed by the plaintiff restraining the respondents from dispossessing the petitioner. The Trial Court has dismissed the suit on 15.09.2000.

Aggrieved by the said order, an appeal was preferred being Appeal No. 74 of 2000.

Both the courts below have found that the plaintiff has no legal right to get the premises. Apart from that the writ is not maintainable as the civil suit was filed, then the Civil Appeal was preferred and against the decision of civil appeal, only second appeal is maintainable and therefore, the writ petition is not maintainable.

Consequently, writ petition is dismissed.

(Rajesh Tandon, J.)

25.04.2006
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